

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36191]

Iowa Pacific Holdings, LLC, Permian Basin Railways, and San Luis & Rio Grande Railway—Corporate Family Transaction Exemption—Grenada Railroad, LLC

Iowa Pacific Holdings, LLC (IPH), Permian Basin Railways (PBR), and San Luis & Rio Grande Railway (SLRG) (collectively, the Parties) have jointly filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(3) for an intra-corporate family transaction.

According to the Parties, IPH is a noncarrier established for the purpose of owning and operating common carrier short line railroads and non-common carrier excursion passenger railroads. The Parties state that PBR is a wholly owned corporate subsidiary of IPH established for the purpose of owning common carrier short line railroads. The Parties further state that PBR directly controls the following Class III common carrier short line railroads: Chicago Terminal Railroad, Mount Hood Railroad, and SLRG. According to the Parties, through SLRG, PBR controls three additional Class III common carrier short line railroads: Saratoga & North Creek Railway, Grenada Railroad, LLC (GRR), and an 80% interest in Massachusetts Coastal Railroad.

The Parties state that GRR was initially established as a direct subsidiary of PBR; however, on or about October 13, 2015, IPH's management decided to place control of GRR under SLRG rather than directly under PBR. The Parties state that IPH and PBR

transferred their direct ownership of GRR to their subsidiary, SLRG, without realizing that authority from the Surface Transportation Board (Board) would be required.

According to the Parties, upon learning that authority was required, the Parties instructed their counsel to seek Board approval.

According to the Parties, IPH's management transferred ownership of GRR from PBR to SLRG for business and tax reasons. The Parties further state that they propose to sell a majority interest in GRR to a third party "that will invest substantial assets in the Line to more fully develop its potential."<sup>1</sup>

The Parties certify that the transaction involved no provision or agreement that would limit future interchange with a third-party connecting carrier.<sup>2</sup>

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 C.F.R. § 1180.2(d)(3).<sup>3</sup> Unless stayed, the exemption will be effective on June 3, 2018<sup>4</sup> (30 days after the verified notice was filed).<sup>5</sup>

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<sup>1</sup> This notice of exemption applies only to the intra-corporate family transfer of GRR from PBR to SLRG, not to any proposed sale of GRR to a third party.

<sup>2</sup> The Parties' certification cites to 49 C.F.R. § 1180.3(g)(4); however, the correct cite is 49 C.F.R. § 1180.4(g)(4).

<sup>3</sup> Section 1180.2(d)(3) exempts transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

<sup>4</sup> The Parties did not request retroactive authorization, and the exemption invoked by the Parties does not provide for retroactive effectiveness. See Wendelin—Continuance in Control—RMW Ventures, LLC, FD 35801, slip op. at 2 n.1 (STB served Mar. 21, 2014) (noting that the authority for a continuance in control exemption under 49 C.F.R. § 1180.2(d)(2) would be effective prospectively only); see also Kan. City S. Lines, Inc.—Corp. Family Transaction Exemption—KCS Transp. Co., FD 33510, slip

(continued . . . )

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the exemption. Petitions for stay must be filed no later than May 25, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36191, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D. Heffner, Clark Hill Strasburger, 1025 Connecticut Ave., N.W., Suite 717, Washington, D.C. 20036.

According to the Parties, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

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( . . . continued)

op. at 1 n.1 (STB served Dec. 10, 1997) (“no class exemption provides for retroactive application”). Accordingly, the authority will be effective prospectively only.

<sup>5</sup> The Parties initially filed their verified notice of exemption on April 27, 2018, but supplemented it on May 4, 2018. Therefore, May 4, 2018, is the official filing date.

Board decisions and notices are available on our website at “[WWW.STB.GOV](http://WWW.STB.GOV).”

Decided: May 15, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.